

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5462 of 1997

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE MR. K.SREEDHARAN  
and  
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 & 2 : YES / 3 to 5 : No

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ACTION RESEARCH IN COMMUNITY HEALTH AND DEVELOPMENT (ARCH)

Versus

GOVERNMENT OF INDIA

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Appearance:

MR UTPAL M PANCHAL for Petitioners  
SERVED BY RPAD - (N) for Respondent No. 1  
Ms. AMEE YAGNIK AGP for Respondent No. 2  
MR YN OZA for Respondent No. 5, 7  
NOTICE SERVED BY DS for Respondent No. 6

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CORAM : THE CHIEF JUSTICE MR. K.SREEDHARAN and  
MR.JUSTICE A.R.DAVE

Date of decision: 22/04/98

ORAL JUDGEMENT (Per : Sreedharan, CJ.)

Petitioners, 12 in number, have approached this Court in a Public Interest Litigation. The complaint

voiced in this petition is that the Tribals of 42 villages in Dediapada Taluka of Bharuch District are being denied the benefit of Employment Assurance Scheme formulated by the Central Government. It is stated that the Tribals are deprived of the work undertaken under the Scheme and thereby the means of livelihood have been denied/deprived. Petitioners, therefore, prayed for 100 days employment under the Scheme, proper implementation of the Employment Assurance Scheme during each year, complete utilisation of the funds allocated by the Central Government and other benefits. Respondents took up the stand that various projects were undertaken under the Employment Assurance Scheme and were notified in the locality in public places. Those who reported for work were given work and they enjoyed benefit of the Scheme. Adivasis whose cause is being championed by the petitioners herein did not report for the work and so they could not derive any benefit of the scheme. According to the respondents, the above situation was created by the petitioners and the adivasis who depend on them.

2. On many previous dates on which this case came up for hearing, we directed the petitioners to chalk out a programme for the work for these adivasis whose cause they are championing, by discussions with the officers who are present in the Court. Pursuant to that direction, we are at pains to state that petitioners did not have any meeting or discussions with the officers. Consequently, no scheme was evolved by the officers who were present in Court to engage adivasis who are represented by the petitioners. Consequently till date, the so-called adivasis whose cause is being put-forth by the petitioners did not get any benefit of the Employment Assurance Scheme.

3. Learned Government Pleader placed before us various works undertaken by the District Rural Development Agency in Dediapada Taluka of Bharuch District. It is stated that a total number of 379 houses are being constructed at the cost of Rs. 79.59 lacs. The said construction is expected to generate approximately 1.22 lakhs mandays of work. Construction of further 400 houses at a cost of Rs. 25 lacs is about to be sanctioned for the year 1998-99. That additional construction work will generate nearly 2 lakhs mandays of work. Construction of Sixty three Irrigation Wells are in progress at a cost of Rs. 37.38 lakhs. The expected mandays for digging the wells comes to 63,000 mandays. It is said that another 28 wells have been sanctioned at a cost of Rs. 16.80 lakhs and yet another 16 wells in 42

villages are also to be dug. The total cost of this comes to Rs. 64,70,000/= and also create 70,000 mandays. 47 Gram Panchayats in Dediapada Taluka have been asked to take up advance work for 1998-99. In order to develop farmers' field, 12 Watershed projects have been taken up at a cost of Rs. 3 Crores. During 1998-99 another 4 to 6 projects are in contemplation and it is to be completed with the help of GIDC Association and other voluntary organisations. A shelf of projects costing Rs. 212 lakhs, it is stated, has been approved by DRDA for Dediapada Taluka. This project will be spread over two years. The statement proceeds by stating that already 21 works, 14 of them through voluntary organisations and 7 works through line departments are in progress. It is also stated that number of works will increase depending on labour availability and that the works mentioned therein are besides regular budgetary works undertaken by the Departments.

4. Learned counsel representing the petitioners submitted before us that he has no instructions as to whether Adivasis whose cause is championed in this petition are benefitted by the works mentioned earlier. He maintains that no work was fixed by the Departmental authorities in consultation with the petitioners and so adivasis were not benefitted.

5. Learned Government Pleader brought to our notice various notices publicised in the locality regarding availability of the work under the Employment Assurance Scheme. On the basis of those public notices, it is said that persons interested in taking up the work reported for duty and were benefitted. It is also stated by the learned Government Pleader that Press Notes were issued and were published in dailies - translation of one of the news item published in the paper was made available and it reads as under :-

NOTICE FOR EMPLOYMENT SEEKER :

DRDA, Bharuch in a communique. While promising to start works under Employment Assurance Scheme (EAS) in Dediapada taluka of Narmada district mentioned that approach road construction work at Junamosada, Kuktiphalia road work, Piplod, Vaghumar road work and Bal approach road work and watershed work at Khattam, Besam, Chuli, Gajargota, Jamni, Jargam, Khokhraumar, Ambavadi, Umran, Kundiamba and Kakarpada will be undertaken. People registered and interested to seek employment under EAS scheme are requested to

contact the respective Gram Panchayat for obtaining employment.

6. From the facts and circumstances detailed above, we are convinced that the Departmental authorities are giving due publicity to the work which is available in the area by issuing Public Notices. Those who are interested in getting the work could report for work and get benefit thereof. The statement made by the petitioners that the Adivasis were denied employment under the Employment Assurance Scheme is factually incorrect and it has been put-forth in this case only as a ruse for justifying filing of the petition. We are unable to understand the purpose for which this petition has been filed because petitioners on the facts and circumstances of the case are not interested in seeing adivasis who are dependent on them are getting benefit of the employment scheme. If they are so advised, they can get benefit of the Scheme as has been notified by the Government officers and non-Governmental Organisations.

7. In the circumstances detailed above, we do not find any merit in this petition. Petition, accordingly, stands dismissed. Notice discharged with no order as to costs.

(K. Sreedharan, CJ)

(A.R Dave, J.)

Prakash\*